

E-filed: 8/28/2008

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

RAMBUS INC.,

Plaintiff,

v.

HYNIX SEMICONDUCTOR INC., HYNIX
SEMICONDUCTOR AMERICA INC.,
HYNIX SEMICONDUCTOR
MANUFACTURING AMERICA INC.,

SAMSUNG ELECTRONICS CO., LTD.,
SAMSUNG ELECTRONICS AMERICA,
INC., SAMSUNG SEMICONDUCTOR, INC.,
SAMSUNG AUSTIN SEMICONDUCTOR,
L.P.,

NANYA TECHNOLOGY CORPORATION,
NANYA TECHNOLOGY CORPORATION
U.S.A.,

Defendants.

No. C-05-00334 RMW

ORDER DENYING WITHOUT PREJUDICE
RAMBUS'S MOTION *IN LIMINE* RELATED
TO SAMSUNG'S DUTY TO NEGOTIATE IN
GOOD FAITH CLAIMS

[Re Docket No. 2085]

RAMBUS INC.,

Plaintiff,

v.

SAMSUNG ELECTRONICS CO., LTD.,
SAMSUNG ELECTRONICS AMERICA,
INC., SAMSUNG SEMICONDUCTOR, INC.,
SAMSUNG AUSTIN SEMICONDUCTOR,
L.P.,

Defendants.

No. C-05-02298 RMW

[Re Docket No. 1042]

ORDER DENYING WITHOUT PREJUDICE RAMBUS'S MOTION *IN LIMINE* RELATED TO SAMSUNG'S DUTY TO
NEGOTIATE IN GOOD FAITH CLAIMS
C-05-00334 RMW; C-05-02298 RMW
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The court issued a scheduling order specific to these two cases on May 7, 2008. The order imposed a series of deadlines for various pretrial filings, including making July 28, 2008 the deadline for filing motions for summary judgment. *See, e.g., Rambus Inc., v. Samsung Electronics Co., Ltd.*, C-05-02298, Docket No. 777 § 1b (N.D. Cal. May 7, 2008).

Last night, Rambus filed its "Motion *in Limine* to Preclude Evidence or Argument Concerning Samsung's Counterclaims Based on Rambus's Alleged Breach of Its Duty to Negotiate in Good Faith." C-05-02298, Docket No. 1042 (Aug. 27, 2008). In its introduction, Rambus argues that "as revealed in Samsung's deposition testimony and damages report, Samsung's claims are legally untenable." Furthermore, "Samsung cannot establish a necessary element of [its] claim." Despite the motion's title, this is plainly a motion for summary judgment on Samsung's second and third counterclaims.¹

The unfairness to Samsung and the court's judicial process is plain. While a party normally receives at least two weeks to oppose a motion for summary judgment, the pretrial process here leaves Samsung only twelve days. Moreover, Samsung must step away from its pretrial planning to address a substantive motion for summary judgment. Furthermore, under the pretrial schedule of this case, the court has three days between receiving Samsung's opposition and the pretrial conference, as opposed to the 21 days between receiving an opposition to a motion for summary judgment and a hearing on the motion.

Obviously, Rambus may raise its arguments in its post-trial briefing or in a motion for judgment as a matter of law on Samsung's second and third counterclaims arising from the alleged breach of the duty to negotiate in good faith. *See* Fed. R. Civ. P. 50(a). However, the time for summary judgment motions has passed and the time for trial is imminent. Neither the court nor the opposing parties should be expected to entertain motions that should have been brought last month

¹ Similar deadlines are approaching for the January 2009 patent trial. The court understands that the line between a motion for summary judgment and a motion *in limine* can be blurry and that these terms are not explicitly defined in the various case management orders. The court hopes that despite this, the parties can distinguish between motions *in limine* that address whether or not types of evidence are admissible from motions for summary judgment that address the legal viability of a party's claims.

1 or earlier.

2 Accordingly, the court denies Rambus's motion *in limine* without prejudice. Samsung may
3 present evidence to support its second and third counterclaims. Whether the counterclaims have a
4 legal basis may be tested at a later point with an appropriate amount of time for Samsung and the
5 court to respond.

6
7 DATED: 8/28/2008



RONALD M. WHYTE
United States District Judge

Notice of this document has been electronically sent to: counsel in C-05-00334 and C-05-02298.

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Dated: 8/28/2008

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Chambers of Judge Whyte